

REMARKS

Claims 1-29 are currently pending in the application. The Office Action rejected claims 1-9, 11-13, 16-21, 24-27 and 29 were rejected under 35 USC 102(b) as anticipated by US Patent No. 4,748,780 (Vinther). Additionally, claims 22 and 23 were rejected under 35 USC 102(b) as anticipated over US Patent No. 5,169,201 (Gower). Further, claims 10 and 28 were rejected under 35 USC 103(a) as unpatentable over Vinther. Still further, 14 was rejected under 35 USC 103(a) as unpatentable over Vinther in view of US Design Patent No. D405,194 (Kenkel). Finally, claim 15 was rejected under 35 USC 103(a) as unpatentable over Vinther in view of US Patent No. 5,605,238 (Jacobs). Although Applicant respectfully traverses the rejections, Applicant has amended independent claims 1, 16, 20, 22, 24 and 26 to more clearly define the invention. Pursuant to 37 C.F.R. 1.111, Applicant respectfully requests reconsideration of the application.

Claims amendments

Claims 1, 16, 20, 22, 24 and 26 have been amended to cover a “single piece, c-shaped” end cap. Support for this amendment can be found throughout the FIGURES. Applicant respectfully tenders that the amendments are not made in response to patentability issues. Rather, the amendments were made merely to more fully define the invention relative to what was disclosed in the specification.

Rejection of claims 1-9, 11-13, 16-21, 24-27 and 29 under 35 USC 102(b)

Claim 1 is an independent claim which stands rejected under 35 USC 102(b). This is significant because the reference relied upon must teach each and every element of claim 1 to prevail. Applicant respectfully tenders that the reference fails to meet this burden. Additionally, the reference relied upon is not analogous art and should not be used in this rejection or in combination with any other art of record.

Applicant initially draws the Office’s attention to the fact that Vinther does not teach or disclose a “single piece, c-shaped protective end cap....” The composite panel with an edge strip

Vinther discloses is not a wood plank having “single piece, c-shaped protective end cap” as defined on page 5, lines 1-6, and FIGURES 1-6 of the specification. Vinther’s edge strip is formed from several sections. Specifically, Vinther’s edge strip is defined as “the two corner strips and the central strip of the edge strip are separate parts.” (4:6-8)

5 Finally, Applicant contends that the Vinther reference is improperly drawn from non-analogous art. Vinther is directed to composite panel designed to substantially avoid dimensional instability by preventing moisture intrusion into the core of the composite panel. Generally, the arrangement of Vinther is directed toward desktops or kitchen counter tops. One skilled in the construction art would not look to art describing ways of covering a core material
10 to prevent moisture intrusion for high impact abuse edge protection for planks and other elements subject to impact related abuse.

 The technology for protecting the edges of a wood product from impact related damage is far removed from the art effectively “sealing” a core material to control moisture passage and thus cannot be considered to be in the field of the claimed invention. Moreover, a reference directed to structure for
15 “sealing” a core member is not reasonably pertinent to the problem of protecting edge portions of a wood member from impact related damage. This, on its own, should be sufficient to remove the Vinther reference from consideration from this and any other rejection. As such, Vinther does not anticipate the present invention. Applicant respectfully requests removal of this ground of rejection.

 With respect to claims 2-9 and 11-13, at a minimum, they depend from claim 1 and are
20 therefore allowable for the same reasons that make claim 1 allowable.

 With respect to claim 16, the deficiencies of Vinther as a reference are discussed above. Specifically, Vinther, at a minimum, fails to disclose a wood plank having a “single piece, c-shaped protective end cap....” Accordingly, Vinther does not anticipate the inventions set forth in claim 16 or any of its dependencies. As such, Applicant respectfully requests removal of this ground of rejection.

25 With respect to claims 17-19, at a minimum, they depend from claim 16 and are therefore allowable for the same reasons that make claim 16 allowable.

With respect to claim 20, the deficiencies of Vinther as a reference are discussed above. Specifically, Vinther, at a minimum, fails to disclose a wood plank having a “single piece, c-shaped protective end cap....” Accordingly, Vinther does not anticipate the inventions set forth in claim 20 or any of its dependencies. As such, Applicant respectfully requests removal of this ground of rejection.

5 Claim 21 is dependant from claim 20 and is therefore allowable for the same reasons that make claim 20 allowable.

With respect to claim 24, the deficiencies of Vinther as a reference are discussed above. Specifically, Vinther, at a minimum, fails to disclose a wood plank having a “single piece protective end cap...having a c-shaped body” Accordingly, Vinther does not anticipate the inventions set forth in
10 claim 24 or any of its dependencies. As such, Applicant respectfully requests removal of this ground of rejection.

Claim 25 is dependant from claim 24 and is therefore allowable for the same reasons that make claim 24 allowable.

With respect to claim 26, the deficiency of Vinther as a reference is discussed above.
15 Specifically, Vinther, at a minimum, fails to disclose a method of protecting a wood plank including a “gluing a single piece, c-shaped protective end cap....” Accordingly, Vinther does not anticipate the inventions set forth in Claim 26 or any of its dependencies. As such, Applicant respectfully requests removal of this ground of rejection.

With respect to claims 27 and 29, they are depended from claim 26 and are therefore
20 allowable for the same reasons that make claim 26 allowable.

Rejection of claims 22 and 23 under 35 USC 102(b)

Claim 22 is an independent claim which stands rejected under 35 USC 102(b). This is significant because the reference relied upon must teach each and every element of claim 22 to prevail. Applicant respectfully tenders that the reference fails to meet this burden. Additionally,
25 the reference relied upon is not analogous art and should not be used in this rejection or in combination with any other art of record.

Applicant initially draws the Office's attention to the fact that Gower does not teach or disclose a "protective end cap adapted to engage a distal end of a wood plank...the inner surface defining a receptacle for contiguously engaging the distal end of the wood plank." The clip on tailgate protector Gower discloses is not a device having a "protective end cap adapted to engage a distal end of a wood plank...the inner surface defining a receptacle for contiguously engaging the distal end of the wood plank" as defined on page 10, lines 1-10, and FIGURES 1-6 of the specification. Gower's tailgate protector is configured to protect a truck tailgate. Specifically, Gower's tailgate protector is defined as "a tailgate protector assembly for protecting a vehicular tailgate having a load bearing surface extending between parallel upper swinging and lower pivoted edges." (2:48-51)

Finally, Applicant contends that the Gower reference is improperly drawn from non-analogous art. Gower is directed to a structure designed to protect a vehicle tailgate. One skilled in the construction art would not look to art describing ways of protecting metal vehicle tailgates for edge protection for planks and other wood elements.

The technology for protecting the edges of a wood product from impact related damage is far removed from the art associated with preventing scrapes and dents in a truck bed, and thus cannot be considered to be in the field of the claimed invention. Moreover, a reference directed to structure for attaching to a truck bed without fasteners is not reasonably pertinent to the problem of protecting edge portions of a wood member from impact related damage. This, on its own, should be sufficient to remove the Gower reference from consideration from this and any other rejection. As such, Gower does not anticipate the present invention. Applicant respectfully requests removal of this ground of rejection.

Claim 23 is dependant from claim 22 and is therefore allowable for the same reasons that make claim 22 allowable.

Rejection of claims 10 and 28 under 35 USC 103(a)

Claims 10 and 28 are dependent from independent claims 1 and 16, respectfully. As such, at a minimum, they are allowable for the same reasons the independent claims allowable.

Additionally, Applicant submits that the composite panel of Vinther is not compatible with the plank or other wood element disclosed in the present invention. Specifically, the high pressure laminates used as the cover panels in Vinther, are typically used with desk tops and kitchen counters. These items are generally not subjected to the type of impact experienced by scaffold planks or the like. As such, the suggestion that the core material of Vinther could be a scaffold plank has no basis. Applicant respectfully requests removal of this ground of rejection.

Rejection of claim 14 under 35 USC 103(a)

Claim 14 is dependent from independent claim 1. As such, at a minimum, claim 14 is allowable for the same reasons claim 1 allowable. Additionally, the references provide no motivation to combine their respective teachings, and actually teach away from one another. Specifically, as discussed above, the edge cover of Vinther is formed from multiple pieces, while the strip for mounting on the edge of a door disclosed in Kenkel is a single piece (FIGURES). Thus, not only do the references fail to provide any motivation to combine their respective teachings, but they actually teach away from one another. As such, an obviousness based rejection over this art is improper. Applicant respectfully requests removal of this ground of rejection.

Rejection of claim 15 under 35 USC 103(a)

Claim 15 is dependent from independent claim 1. As such, at a minimum, claim 14 is allowable for the same reasons claim 1 allowable.

The deficiencies of Vinther are discussed above. Jacobs fail to remedy these deficiencies. There is no motivation to combine the cited references, and in fact the references actually teach away from one another. Vinther is largely silent with respect to how the elements are to be manufactured. However, Vinther does mention that the edge strips may be metal, and specifically, aluminum. (10:54-57). Typically, injection molding is not used with metal fabrication. Thus, any suggestion to modify Vinther by Jacobs for the teaching of injection molding has no basis. Applicant respectfully requests removal of this ground of rejection.

CONCLUSION

In summary, Applicant respectfully traverses the Office Action's rejections of Claims 1-29. Based upon the above remarks, Applicant respectfully requests reconsideration of the application and its early allowance.

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Respectfully submitted,



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